

# COUNTY OF YORK

## MEMORANDUM

**DATE:** June 30, 2003 (PC Mtg. 7/9/03)

**TO:** York County Planning Commission

**FROM:** Amy M. Parker, Senior Planner

**SUBJECT:** Application No. ZM-76-03 (conditional), Tidewater Physicians Multispecialty Group

### ISSUE

This application is a request to amend the York County Zoning Map by reclassifying from R20 (Medium-density single-family residential) to conditional LB (Limited Business) approximately 24,408 square feet of land located in the northwest quadrant of Mill Crossing (Route 1750) and Hampton Highway (Route 134) at 101 Mill Crossing and further identified as Assessor's Parcel No. 37-29-2-4. The applicant has voluntarily proffered to limit the use of the property to family practice doctor offices.

### DESCRIPTION

- Property Owner: George W. Kent, Jr.
- Location: 101 Mill Crossing, at the Hampton Highway (Route 134) intersection
- Area: 24,408 square feet
- Frontage: approximately 224 feet on Hampton Highway, 129 feet on Mill Crossing
- Utilities: Public water and sewer
- Topography: Flat
- 2015 Land Use Map Designation: Medium-Density Residential
- Zoning Classification: R20 (Medium-density single-family residential)
- Existing Development: Vacant
- Surrounding Development:

North: Vacant lot, single-family detached homes beyond (Mill Crossing subdivision)

East: Tabb Church of God, single-family detached homes beyond (across Mill Crossing)

South: Single-family detached homes and vacant land (across Hampton Highway)

West: Single-family detached homes

- Proposed Development: Office (doctor, family practice)

### **CONSIDERATIONS/CONCLUSIONS**

1. The subject property is a 24,408 square foot undeveloped parcel located in the Mill Crossing development. The parcel was created in 1995 when subdivided from a 1.06-acre parcel originally platted as part of Section Two of the Mill Crossing subdivision.

Surrounding properties on the north side of Hampton Highway are zoned R20 (Medium-density residential), and properties to the south are zoned R13 (Single-family residential) and PD (Planned Development). The PD district, rezoned from R12 (Single-family residential) in the early 1990s, was created to establish the Coventry residential development. The undeveloped Coventry parcel on the east side of Owen Davis Boulevard is designated for apartment development. The nearest areas of commercial zoning are located one-half mile to the east at the intersection of Big Bethel Road and Hampton Highway (General Business) and one mile to the west at the intersection of Victory Boulevard and Hampton Highway (General Business and Limited Business). With the exception of a church (Tabb Church of God) located at the northeast corner of Mill Crossing and Hampton Highway, surrounding land uses in the immediate vicinity are exclusively single-family detached dwellings.

2. Uses permitted as a matter of right in the R20 zoning district include single-family residential dwellings, public schools, government offices, libraries, public safety facilities, and places of worship. Uses permitted with an approved Special Use Permit include single-family attached dwellings, tourist homes, group homes, transitional homes, meeting halls and private civic clubs, pre-school, child care or nursery school facilities and nursing homes. Although a wide variety of commercial uses are permitted in the LB district, the applicant has proffered to restrict use of the property to a family practice physician office.
3. The applicant has submitted a sketch plan showing a proposed 3,700 square foot two-story office building with associated parking. A proposed driveway is shown connecting to Mill Crossing. The property is subject to several Zoning Ordinance requirements affecting the proposed development. Hampton Highway is designated as a greenbelt corridor; therefore, the southern frontage of the lot is subject to a 35-foot greenbelt buffer in which no parking or structures can be built. Access to the property is limited to the Mill Crossing frontage because of an existing restricted access easement along the Hampton Highway frontage of the property. If the proposed rezoning request is approved, transitional buffers will be required bordering the north (17.5 feet), east (20 feet) and west (35 feet) sides of the parcel. An additional effect of the rezoning would be to impose a 17.5-foot transitional buffer on future development of the vacant parcel bordering the north side of the applicant's property. While a driveway is permitted within the transitional buffer, parking and structures are precluded. It must be noted that the applicant's sketch plan incorrectly

indicates a portion of the parking and building within this buffer area. A diagram of the noted required buffer limits is included as an attachment.

4. The Comprehensive Plan designates the subject parcel and the surrounding area (east of Victory Boulevard and west of the cities of Hampton and Poquoson) for medium-density residential on the north side of Hampton Highway and high-density residential on the south side of the highway. The residential designations were made in recognition of the existing mix of single-family detached, single-family attached and multi-family developments in the subject area. Regarding future commercial development for the noted area, the Plan states:

“Additional commercial development in this area is proposed to be concentrated around the Big Bethel Road/Hampton Highway intersection. This type of nodal commercial development has the advantages of limiting the number of curb cuts and encouraging an economically efficient concentration of uses on commercial sites. Small and scattered individual parcels, in contrast, hinder internal circulation, cause deterioration of roadway capacity and can create a strip commercial atmosphere. The preferred development within this node includes concentrations of commercial activity such as typically found in shopping centers and small office centers. In addition, two smaller commercial nodes have been designated along Route 134 at the York Downs Drive and First Avenue intersections in recognition of existing or approved commercial activities; however, commercial development at these intersections should not be permitted to spread along Route 134.”

## **RECOMMENDATION**

It is the opinion of staff that the proposed rezoning request constitutes “spot zoning,” and should therefore be denied. “Spot zoning” occurs when a single parcel or small area of land is rezoned to a classification that is different from that of surrounding properties, inconsistent with adopted land use policies, and is not in the interest of the overall community health, safety and welfare.

In this case, the subject parcel is a small individual parcel that is completely surrounded by residential zoning districts and established residential uses. The closest commercial districts are located on Hampton Highway at the intersections of Big Bethel Road (one-half mile distant) and Victory Boulevard (one mile distant). If rezoned, this single parcel would be a commercial zone completely isolated from other commercial zones and surrounded by incompatible residential zones and uses. It is acknowledged that the church located across Mill Crossing from the subject parcel is not a residential use; however, this use is permitted as a matter of right in the R20 district, and therefore is deemed to be compatible with residential uses. The proffered commercial use, namely a physicians’ office, is not permitted in residential zones and is not in character with the surrounding single-family residential uses.

As noted above, the Comprehensive Plan designates the subject parcel and surrounding land for residential purposes. It further recommends that commercial development be limited to commercial nodes at the intersections of Big Bethel Road and Victory Boulevard, and that commercial uses should not be permitted to expand along Hampton Highway beyond these nodes. Accordingly, the proposed rezoning is not only inconsistent with the Plan but in direct contrast to the vision set forth in the Plan for the Route 134 corridor.

It is important to note that the area surrounding the subject parcel has been developed during the time of the current and previous Comprehensive Plan cycles for residential uses, consistent with Plan recommendations. There have been no changes in development patterns in the area since adoption of the current Comprehensive Plan that would warrant establishment of a commercial zone in the subject area. While the property is zoned R20, there are a number of nonresidential uses that could be sited on it, whether as a matter of right or by Special Use Permit. Given its location on one of the corners of this busy intersection, it is understandable that the parcel has not been developed with a single family detached residence. However, there are, as noted above, nonresidential options that would be consistent with the existing zoning. In staff's opinion, deviating from the options already allowed under the existing R20 classification should not be considered unless there has been a Comprehensive Plan amendment.

Given its lack of consistency with the Comprehensive Plan and its incompatibility with surrounding uses, the establishment of a physician office in the middle of existing residential neighborhoods would not serve to enhance the health, safety or welfare of the overall community. Further, the proposed rezoning would create an imposition on the vacant property north of the subject parcel by requiring a 17.5-foot landscaped transitional buffer along their southern property line, within which no building or other structure can be built. The proposed rezoning would serve solely to benefit the individual property owner without any corresponding public or community benefit. Therefore, for reasons stated above, staff recommends denial of the proposed rezoning request. This can be achieved through the denial of proposed resolution No. PC03-17.

## AMP

### Attachments

- Zoning Map
- Survey Plat
- Proffer Statement
- Applicant's Sketch Plan
- Buffer/Setback Diagram
- Proposed Resolution No. PC03-17